IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

FRIDAY, THE 25TH MAY 2007 / 4TH JYAISHTA 1929

WP(C).No. 18385 of 2006(L)

PETITIONER:

CHEKKU, S/O. KUNAHAMMED,
KARUMATHIL CHETTARAYIL HOUSE, MARANCHERY,PONANI.

BY ADV. SRI.A.KRISHNAN
SRI.P.MOHANDAS

RESPONDENTS:

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1. THE TAHSILDAR, PONANI TALUK.

2. THE REVENUE DIVISIONAL OFFICER, TIRUR.

3. THE VILLAGE OFFICER,
MARANCHERRY, PONANI.

4. THE STATE OF KERALA,
REPRESENTED BY THE REVENUE SECRETARY, TRIVANDRUM.

BY ADV. SHRI.MOHAMMED RAFFIQ, GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 25/05/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C)No. 18385/2006

APPENDIX

PETITIONER'S EXHIBITS

P1 : COPY OF ORDER DATED 13/10/2003.

P2 : COPY OF NOTICE DATED 10/10/2003.

P3 : COPY OF APPEAL DATED 12/08/2004.

P4 : COPY OF THE RECEIPTS.

P5 : COPY OF THE CERTIFICATE DATED 05/08/2004.

// TRUE COPY //

PA TO JUDGE

jg

C.N.RAMACHANDRAN NAIR, J.

WP(C) No. 18385 of 2006

Dated, this the 25th day of May, 2007

J U D G M E N T

Even though petitioner is opposing assessment of luxury tax charged under Sec. 5A of the Building Tax Act on the ground that the building was completed in 1997, it is seen from counter affidavit that petitioner himself filed return in Form No.II on 31/08/2002 declaring that the construction of the building was completed in April 2002. Moreover, the plinth area declared by the petitioner is 420 sq.m., which is above the minimum plinth area that attracts luxury tax. Since the plinth area of the building, on measurement by the Tahsildar was found to be 694.41 sq.m, building tax be assessed for that plinth area. I do not think there is any scope for interference with the assessment and demand of building tax / luxury tax. However, if there is a mistake in the plinth area, it is open to the petitioner to request Asst. Executive Engineer, PWD to measure out the plinth area of the building. If the report from the Asst. Executive Engineer, PWD shows that the plinth area is less than the assessed plinth area, then, there will be a direction to the 1st respondent to measure once again and rectify the assessment

without any delay. Whatever payment made by the petitioner shall be adjusted and balance only shall be recovered from the petitioner.

This WP(C) is disposed of as above.

(C.N.RAMACHANDRAN NAIR, JUDGE.)

jg